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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,255	10/03/2003	Michael M. Mann	65568/ENCMP	7674
24201 7590 11/12/2009 FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045				
EXAMINER PARKER, BRANDI P				
ART UNIT 3624		PAPER NUMBER		
MAIL DATE 11/12/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/679,255

Applicant(s)

MANN ET AL.

Examiner

BRANDI P. PARKER

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-14 and 22-27 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 16-21 is/are rejected.
- 7) ☒ Claim(s) 9-14 and 22-27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. This is a Third Non-final office action in response to communications filed on 6/30/2009.
2. Claims 1-14 and 16-27 are pending in this Office Action. Claims 1 and 2 are amended.

Response to Applicant's Amendments

3. Applicant's amendment to claim(s) 1 and 2, filed on 6/30/2009, has been fully considered and is persuasive. The rejection of claims 1-27 under 35 USC §101 has been withdrawn.

Response to Applicant's Arguments

4. The rejection of claims 9-14 under 35 USC §112, first and second paragraphs has been withdrawn.
5. The objection to the specification has been withdrawn.

Response to Affidavit/Declaration

6. Applicant's declaration under 37 CFR 1.132 filed on 6/30/2009 regarding the application notes has been fully considered and is sufficient to overcome the rejection of claims 1-8 and 16-21 based upon Townsend (US 6631473) in view of EnCompass Knowledge Systems, Inc. (Knowledge Management) as set forth in the last Office Action.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-8 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Townsend (US6631473) in view of Trevithick et al (US 2002/0116466).

9. With respect to **claims 1 and 2**, Townsend teaches the system and method comprising:

a. analysis and management software for defining the status of complex system/organization components in terms of issues and relationships

(column/line 3/5-12, regarding the determination of business concerns or issues of the organization);

b. third means for quantifying the agreement among various system/organizational components relative to selected systems/organizational tool characteristics (column/line 3/38-62, regarding issues answered by personnel regarding organization operations);

c. establishing benchmarks for orienting and/or monitoring system/organization change and improvement for measuring, predicting and enhancing various aspects of the organization (column/line 4/3-7, regarding the determination of recommended levels based on interpreted analysis information).

d. memory for storing the analysis and management software (column/line 8/24-37, regarding computer system 700);

e. a processor, for processing the analysis and management software (column/line 8/24-37, regarding computer system 700);

Townsend does not directly teach obtaining input data from participants in an organization regarding their perceptions. However, Trevithick teaches

i. obtaining input data from participants in an organization regarding their perception of the significance of their interaction with others on particular issues and/or relationships within the organization (paragraph

0005, regarding characterizing the nature and quality of relationships between each network participant); and

ii. reflecting the interactive perspective of individuals relative to each other on said issues and relationships (paragraph 0006, regarding the capture and characterization of network participant interactions as a set of objective metrics).

It would have been obvious to one of ordinary skill in the art to include the business system of Townsend with the ability to obtaining input data from participants in an organization regarding their perceptions as taught by Trevithick since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

10. As to **claims 3 and 16**, Townsend teaches wherein said tool characteristics include: a metric for "CLARITY" (column/line 6/40-45).

11. Regarding **claims 4 and 17**, Townsend teaches wherein said tool characteristics include: a metric for "INVOLVEMENT" (column line 6/49-62).

12. With respect to **claims 6 and 19**, Townsend teaches wherein said tool characteristics include: a metric for "PRIORITY" (column/line 4/43-46, 4/56-5/18).

13. As to **claim 7 and 20**, Townsend teaches wherein said tool characteristics include: a metric for "RELATIVE PRIORITY" (column/line 4/46-49).

14. Regarding **claim 8 and 21**, Townsend teaches wherein said tool characteristics include: a metric for "INTEGRATION" (column/line 7/1-37).

15. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Townsend (US 6631473) and Trevithick et al (US 2002/0116466) as applied to claims 1 and 2 above, in further view of Hambrick et al (US 5671360).

16. With respect to **claims 5 and 18**, Townsend teaches the calculation of various metrics using mathematical algorithms (column/line 4/43-5/18; column 6, lines 40-62; column 7, lines 1-37). Townsend does not explicitly teach a tool characteristic including a metric for "LEVERAGE". However, Hambrick teaches wherein said tool characteristics include: the authority metric "LEVERAGE" (column/line 8/22-38).

It would have been obvious to one of ordinary skill in the art to include the business system of Townsend in view of Trevithick that leverages the time and knowledge of participants of an organization with the ability to calculate a leverage metric as taught by Hambrick since the claimed invention is merely a combination of old

elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Allowable Subject Matter

17. Claims 9-14 and 22-27 are objected to as being dependent upon a rejected base claims 1 and 2, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Examiner's Notes

18. The instant application may disclose patentable subject matter however not all of the disclosed potentially patentable subject matter is recited in the claims. An interview with the examiner may be productive. The concept of issue/relationship tracking and determination amongst employees, participants in a network and social networks for establishing benchmarks has been found to be old and well known in the prior art. It appears that the novelty of Applicant's invention is regarding the specific formulas used to determine the tool characteristic metrics present in claims 9-14 and 22-27, and the independent claims should be amended to recite the corresponding limitations.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Eick et al (US 5835085), regarding graphical display of relationships); Hurd, II (US 6222535), regarding system and method for facilitating issue tracking; Dougherty et al (US 6370575), regarding status/issue tracking; Hu (US 2002/0147710), regarding extracting relations between people and organizations; LaBlanc et al (US 6675127), regarding method for managing project issues and risks; Hetzler et al (US 6897866), regarding entity relationship visualization).

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI P. PARKER whose telephone number is (571) 272-9796. The examiner can normally be reached on Mon-Thurs. 8-5pm.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley B. Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRANDI P PARKER/
Examiner, Art Unit 3624

/Bradley B Bayat/
Supervisory Patent Examiner, Art Unit 3624